

REMARKS

Double Patenting:

Claims 13, 16-17, and 22-24 have been rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 11-13 and 18-21 U.S. Patent 7,098,032 ('032). Applicants have amended the claims to obviate the rejection. Specifically, Applicants have amended claim 13 to incorporate the limitations of claims 31 and 32. Additional support for the amendment can be found on page 9 lines 12-23, and page 15, example 4 of the specification. In view of the amendment, Applicants request reconsideration of the double patenting rejection.

Rejection of the claims under 35 USC §102:

Claims 13-17, 19-20, 22, and 25-40 have been rejected under 35 U.S.C. 102(e) as being anticipated by Meier et al (U.S. Patent 6,616,946 ('946)). Applicants have amended the claims to obviate the rejection. Specifically, Applicants have amended the claims to recite that the polyvinylether capable of lysing red blood cells. Support for the amendment can be found on page 9 lines 12-23, and example 4 (page 15) of the specification. '946 teaches affinity molecules or proteins randomly conjugated along the backbone of a poly(NIPAAm) polymer (column 15 line 65 to column 16 line 40). '946 also teaches copolymerization of a small amount (less than 10 mole percent) of a pH sensitive comonomer such as AAc with a thermally sensitive NIPAAm (column 6 lines 5-35) and random copolymers of ethylene oxide (EO) and propylene oxide (PO) (column 7 line 62 to column 8 line 13). '946 does not teach a polyvinylether polymer containing cationic monomeric units and alkyl or aryl monomeric units randomly incorporated into the backbone of the polymer wherein the polymer is capable of lysing red blood cells. In view of the amendments, Applicants request reconsideration of the 102 rejection.

Support for the amendments to claim 19 can be found in previous claims 26, 29, 32, 35, 38, and 40 and on page 9 lines 12-23, page 7 lines 30-34, and page 15, example 4 of the specification.

Rejection of the claims under 35 USC §103:

Claims 23-24 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Meier et al (U.S. Patent 6,616,946) in view of Merdan et al. (Adv Drug Deliv Rev 2002). It is the Applicants' opinion that the amendments and arguments made in response to the 102(e) rejection over Meier et al. are sufficient to obviate the 103 rejection. Applicants request reconsideration of this §103 rejection.

The Examiner's objections and rejections are now believed to be overcome by this response to the Office Action. In view of Applicants' amendment and arguments, it is submitted that claims 13-16, 19, 20, 22-27, 30, 33, 34, 36, 37, and 39 should be allowable.

Respectfully submitted,

/Kirk Ekena/  
Kirk Ekena, PhD, Reg. No. 56,672  
Mirus Bio Corporation  
505 South Rosa Road  
Madison, WI 53719  
608-238-4400

I hereby certify that this correspondence is being  
transmitted to the USPTO on this date: 09/10/2008.

/Kirk Ekena/  
Kirk Ekena